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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,991	03/07/2005	Penne J. Hout	62531A	7616

109 7590 10/25/2006

THE DOW CHEMICAL COMPANY  
INTELLECTUAL PROPERTY SECTION,  
P. O. BOX 1967  
MIDLAND, MI 48641-1967

EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 10/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary  
for Applications  
Under Accelerated Examination**

Application No.

10/526,991

Applicant(s)

HOUT ET AL.

Examiner

Victor S. Chang

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Since this application has been granted special status under the accelerated examination program,**  
**NO extensions of time under 37 CFR 1.136(a) will be permitted and a SHORTENED STATUTORY PERIOD FOR**  
**REPLY IS SET TO EXPIRE:**

**ONE MONTH OR THIRTY (30) DAYS, WHICHEVER IS LONGER,**  
**FROM THE MAILING DATE OF THIS COMMUNICATION -- if this is a non-final action or a Quayle action.**  
(Examiner: For **FINAL** actions, please use PTOL-326.)

The objective of the accelerated examination program is to complete the examination of an application within twelve months from the filing date of the application. Any reply must be filed electronically via EFS-Web so that the papers will be expeditiously processed and considered. If the reply is not filed electronically via EFS-Web, the final disposition of the application may occur later than twelve months from the filing of the application.

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 3) ☒ Claim(s) 1-19 is/are pending in the application.  
3a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 4) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 5) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 6) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 7) ☒ Claim(s) 1-19 are subject to restriction and/or election requirement.

**Application Papers**

- 8) ☐ The specification is objected to by the Examiner.
- 9) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 10) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 11) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-13, drawn to a polymeric foam composite.

Group II, claim(s) 14-19, drawn to a process of making a polymeric foam composite.

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: claim 1 is either anticipated by or obvious over US 6319962. More particularly, US '962 teaches a rigid polyurethane or urethane-modified polyisocyanurate foams having improved flammability performance and blown with hydrocarbon blowing agents in combination with a minor amount of water; comprises halogenated blowing agent, phosphorous material, glass fibers and facing sheet, etc. [abstract; col. 1, lines 9-15; col. 3, lines 20-25; col. 8, line 40; col. 9, line 39]. As such, claim 1 lacks novelty or inventive step, and does not make a contribution over the prior art. The unity of invention is lacking and restriction is appropriate.

2. This application contains claims directed to more than one category of species of the generic invention. These categories of species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

#### A. Polymeric foam composition

1. polyurethane foam, as set forth in claim 1.
2. polyisocyanurate foam, as set forth in claim 1.

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B. Fiber distribution in the foam

1. within specific region, as set forth in claim 2;
2. uniformly throughout the foam, as set forth in claim 12.

C. Fiber/foam surface structural relationship

1. extending to within 0.125 inches of front surface, as set forth in claim 2;
2. extending to the front surface, as set forth in claim 11.

D. Blowing agent

Please elect one of the blowing agents set forth in claims 8 and 9.

Applicant is required, in reply to this action, to elect a single species from each category to which the claims shall be restricted to commonly elected species of all the category if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The following claim(s) are generic: claim 1.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: each species has patentably distinct structure and/or composition.

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3. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

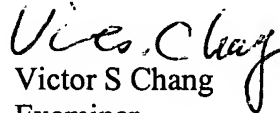
4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S. Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Victor S Chang  
Examiner  
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10/23/2006